

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NORTH CAROLINA

U.S.A. vs. Brian Allen Gardner

Docket No. 5:17-CR-346-1D

Petition for Action on Supervised Release

COMES NOW Cierra M. Wallace, U.S. Probation Officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Brian Allen Gardner, who, upon an earlier plea of guilty to Conspiracy to Distribute and Possess With the Intent to Distribute 5 Grams or More of Methamphetamine and a Quantity of Heroin, in violation of 21 U.S.C. §§ 846 and 841(b)(1)(B), was sentenced by the Honorable James C. Dever III, U.S. District Judge, on May 8, 2018, to the custody of the Bureau of Prisons for a term of 48 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for a period of 60 months.

Brian Allen Gardner was released from custody on April 3, 2020, at which time the term of supervised release commenced.

On June 10, 2020, a Petition for Action on Supervised Release was submitted to the court requesting Gardner to participate in mental health treatment. The Court agreed.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

On January 7, 2021, the defendant was directed to submit a urinalysis for testing. In an attempt to deceive the probation office, the defendant brought a bottle containing urine to provide a fictitious sample. When confronted, the defendant admitted to utilizing the bottle and admitted to the use of marijuana and amphetamine. At that time, the defendant submitted a urine sample that was submitted to the lab for testing and signed an admission of use form for marijuana and amphetamine use. The defendant was admonished for his attempt to use a false sample to betray the trust of the court and probation office. Cognitive intervention was utilized to promote improved decision making. The defendant has been referred to substance abuse treatment and enrolled in the surprise urinalysis program. Due to defendant's egregious behavior, it is recommended that the court continue supervision and require the defendant to participate in 12 hours of community service.

The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

1. The defendant shall perform 12 hours of community service as directed by the probation office and if referred for placement and monitoring by the State of North Carolina, pay the required fee.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

I declare under penalty of perjury that the foregoing
is true and correct.

/s/ David W. Leake
David W. Leake
Supervising U.S. Probation Officer

/s/ Cierra M. Wallace
Cierra M. Wallace
U.S. Probation Officer
414 Chestnut Street, Suite 102
Wilmington, NC 28401-4290
Phone: 910-679-2034
Executed On: January 13, 2021

ORDER OF THE COURT

Considered and ordered this 14 day of January, 2021, and ordered filed and
made a part of the records in the above case.

James C. Dever III
James C. Dever III
U.S. District Judge